

page for the General Assembly, working on election day, testifying in court under subpoena, service in the Indiana National Guard), IC 20-8.1-3-19 (mental or physical unfitness, religious objection), IC 20-8.1-4-21.5 (absence for certain performances), IC 20-8.1-5-15 (student suspended, expelled, or excluded from school following proper due process procedures), IC 20-8.1-7-8 (temporary exclusion due to illness, disease, or infestation), and IC 20-8.1-7-10.1 (failure to provide proof of immunization).

Petitioner's situation does not meet any of the above exceptions to compulsory attendance.

4. There is no federal Constitutional right to an education at public expense; however, the Fourteenth Amendment forbids the State to deprive any person of life, liberty, or property without due process of law. This provision applies where a state has chosen to extend the right to an education to a class of people such as Indiana has. This state-given right creates a legitimate entitlement to a public education which is considered a property interest for purposes of applying the Fourteenth Amendment. Goss v. Lopez 419 U.S. 565 (1975).

The courts have addressed the rights of pretrial detainees and determined that pretrial detainees possess the same rights as other citizens, except to the extent necessary to ensure the detainee's appearance at trial and the security of the institution in which the detainee is confined. Lock v. Jenkins, 641 F.2d 488 (7th Cir. 1981). Lock concerned a dispute which arose at the Indiana State Prison at Michigan City. Pretrial detainees alleged that the conditions of their confinement violated their constitutional rights. The court held at 497:

The requirement of equal protection...dictates, as appellees here agree, that pretrial detainees may not be treated less favorably than convicted persons, unless the difference in treatment is justified by a legitimate government interest.

Under IC 11-10-5, the Department of Correction is required to implement academic and vocational curricula for offenders in consultation with the State Superintendent of Public Instruction, the Commission on Vocational and Technical Education, and the State Director of Special Education. IC 20-8.1-3-36 makes it unlawful "for a person operating or responsible for an educational [or] correctional... institution. .to fail to ensure that a child under his authority attends school as required under this chapter (compulsory attendance)."

As noted in conclusion of law #2, there has been no showing that providing an education to petitioner is not "reasonably possible," nor has there been a showing that there is a "legitimate government interest" that would justify treating petitioner less favorably than a convicted person or an incarcerated juvenile by denying him the right to an education.

5. IC 20-8.1-6.1-5(a) states:

A student who is placed in a state licensed private or public health care facility, child care facility, or foster home: